



CLEARY GOTTlieb STEEN & HAMILTON LLP

**Timothy Graulich**

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017

212 450 4639 tel  
timothy.graulich@davispolk.com

**Carmin D. Boccuzzi**

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006

212 225 2508 tel  
cboccuzzi@cgsh.com

May 13, 2021

VIA ELECTRONIC CASE FILING

The Honorable John P. Cronan  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1320  
New York, NY 10007

Re: *The Bank of New York Mellon v. Samarco Mineração S.A.*, 1:20-cv-08206-JPC, 1:20-cv-08209-JPC, and 1:20-cv-08211-JPC (S.D.N.Y.)

Dear Judge Cronan:

Davis Polk & Wardwell LLP and Cleary Gottlieb Steen & Hamilton LLP respectively represent Plaintiff The Bank of New York Mellon, as Trustee, and Defendant Samarco Mineração S.A. - Em Recuperação Judicial (“Samarco,” and together with the Plaintiff, the “Parties”) in the above-referenced proceedings. In accordance with Your Honor’s Minute Entry, dated April 13, 2021, the Parties write to provide an update on the status of the Brazilian judicial reorganization proceeding (the “RJ Proceeding”) and the recognition proceeding commenced under Chapter 15 of Title 11 of the United States Code (the “Chapter 15 Proceeding”).

On April 19, 2021, Cristina Morgan Cavalcanti, the duly-appointed foreign representative of Samarco, commenced the Chapter 15 Proceeding and filed a petition for recognition of the RJ Proceeding as a “foreign main proceeding” under Chapter 15 of Title 11 of the United States Code.<sup>1</sup> The next day, Samarco sought emergency provisional relief under 11 U.S.C. § 1519, specifically, an order temporarily enjoining all actions against Samarco or its assets located within the territorial jurisdiction of the United States, including, without limitation, the above-referenced proceedings, pending consideration of Samarco’s request for recognition (the “Provisional Relief Motion”).<sup>2</sup> No objections to the Provisional Relief Motion were filed and, on April 22, 2021, after a hearing at which no oral objections were lodged, the Honorable Lisa

---

<sup>1</sup> See Petition for Recognition of Foreign Proceeding, *In re Samarco Mineração S.A. – Em Recuperação Judicial*, Case No. 21-10754 (LGB) (Bankr. S.D.N.Y. Apr. 19, 2021).

<sup>2</sup> See Motion for Provisional Relief Pursuant to 11 U.S.C. §§ 1519, 1521(a)(7), 105(a) and 362, *In re Samarco Mineração S.A. – Em Recuperação Judicial*, Case No. 21-10754 (LGB) (Bankr. S.D.N.Y. Apr. 20, 2021).

Hon. John P. Cronan, p. 2

G. Beckerman, United States Bankruptcy Judge for the Southern District of New York (the “Bankruptcy Court”), entered an order granting the Provisional Relief Motion.<sup>3</sup>

The Bankruptcy Court this morning held a hearing in the Chapter 15 Proceeding on the foreign representative’s petition for recognition of the RJ Proceeding under Chapter 15 of Title 11 of the United States Code. No written objections were timely filed in advance of today’s hearing, and at the hearing the Bankruptcy Court recognized the RJ Proceeding as a foreign main proceeding pursuant to 11 U.S.C. § 1517 and entered an order, which, among other things, granted relief under 11 U.S.C. §§ 1520 and 1521, including enjoining all actions against Samarco or any of its assets located within the territorial jurisdiction of the United States.<sup>4</sup> As such, the above-referenced proceedings have been stayed for the foreseeable future, and the Parties will notify Your Honor to the extent that changes.

Respectfully submitted,

/s/ Carmine D. Boccuzzi

Carmine D. Boccuzzi  
Cleary Gottlieb Steen & Hamilton LLP  
On Behalf of Samarco

/s/ Timothy Graulich

Timothy Graulich  
Davis Polk & Wardwell LLP  
On Behalf of The Bank of New York Mellon,  
as Trustee

---

<sup>3</sup> See Order Granting Provisional Relief, *In re Samarco Mineração S.A. – Em Recuperação Judicial*, Case No. 21-10754 (LGB) (Bankr. S.D.N.Y. Apr. 22, 2021).

<sup>4</sup> See Order Granting Recognition and Final Relief in Aid of a Foreign Proceeding, *In re Samarco Mineração S.A. – Em Recuperação Judicial*, Case No. 21-10754 (LGB) (Bankr. S.D.N.Y. May 13, 2021).